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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,541	12/17/1999	DAN EHRING	18212-0011	1304

25696 7590 04/23/2002

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EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 04/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/466,541

Applicant(s)

EHRING ET AL.

Examiner

Robert M. Pond

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Multiple use of "and/or" requires correction.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**4. Claims 1-3 are rejected under 35 USC 102(e) as being anticipated by Tuzhilin, patent number 6,236,978.**

Tuzhilin teaches all the limitations of Claims 1-3. For example, Tuzhilin discloses a system and method that can be used in conjunction with a personal shopping assistant system or a personal intelligent digital assistant system that provide better recommendations to the users as to which products and services each individual user should utilize. Tuzhilin discloses use with dynamic web content presentation systems to facilitate the provision of more pertinent web pages to the user visiting a particular web site, collecting historical purchasing

data of users, one-to-one marketing, and rules that describe a user's behavior. Tuzhilin further discloses a system and method that generates static and dynamic user profiles and thereafter, transforms the dynamic profiles for various users into aggregate rules, user state and world state data to facilitate content deployment, and databases for storage and retrieval (see at least abstract; Fig. 1 (1, 2, 3); Fig. 3 (40); Fig. 4 (160); Fig. 6a(145, 150, 160); Fig. 6b (Central Computing Device); col. 1, line 10 through col. 2, line 67; col. 10, line 50 through col. 14, line).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 6,334,110 (Walter et al) 25 December 2001; teaches a system and method for analyzing customer behavior at the time when behaviors occur.
- US 6,266,649 (Linden et al) 24 July 2001; teaches a recommendation service that recommends items to individual users based on a set of items previously purchased by the user.
- US 6,256,633 (Dharap) 03 July 2001; teaches users navigating through an electronic database in a personalized manner, wherein context is created based on a user profile.

- US 6,016,486 (Nichols) 18 January 2000; teaches a goal-based learning system utilizing a rule-based expert training system to provide a cognitive educational experience.
- US 6,014,634 (Scroggie et al.) 11 January 2000; teaches delivering purchasing incentives and a variety of other retail shopping aids through a computer network.
- US 6,009,410 (LeMole et al.) 28 December 1999; teaches a customized advertising repository.
- US 5,696,965 (Dedrick) 09 December 1997; teaches an electronic appraisal agent which compares the contents of the server to a set of search criteria.
- Rucker, "Siteseer: Personalized Navigation For The Web," Communications of the ACM, March 1997, v40n3pp:73-75, Dialog file 15 #01378975; teaches a web-page recommendation system.
- Business Wire, "WebTrends Announces Enterprise Reporting Server Version 2.0; Industry Leader Provides The First Cross Platform Solution For Linus, Solaris And Now, The Windows NT Platform," 2 November 1999, Dialog file 610 #00130974; teaches converting static web pages to dynamic, database-driven e-Business solutions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is

703-605-4253. The examiner can normally be reached Monday-Friday, 8:00AM-5:00PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

RMP  
April 19, 2002

  
WYNN COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100